

Filed 6/12/19 In re S.C. CA2/8

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re S.C. et al., Persons Coming Under the Juvenile Court Law.
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B293252

LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES,
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(Los Angeles County
Super. Ct. No. 18CCJP03107A-D)

Plaintiff and Respondent,

v.

J.T.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Michael E. Whitaker, Judge. Conditionally reversed and remanded.

Michelle L. Jarvis, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Appellant J.T. (father) raises one issue on appeal: whether the Los Angeles County Department of Children and Family Services (DCFS) complied with its duty to inquire about the Indian ancestry of the three minor children (Felix, Delilah, and Adam) later declared dependents of the juvenile court. By letter brief dated May 13, 2019, DCFS advised the court it does not oppose remanding the matter to the juvenile court with directions to order DCFS to conduct further inquiry and provide proper notice pursuant to the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.) (ICWA). DCFS agrees with father that there is nothing in the record that indicates DCFS ever asked him or his readily available parents whether he has Indian ancestry. (See California Rules of Court, rule 5.481(a).)

We agree with the parties that the record reflects an insufficient inquiry was made with respect to the children's possible Indian heritage. We agree a remand is appropriate for the sole purpose of directing DCFS to further investigate, including interviewing the children's father and paternal grandparents, and send notice to any appropriate tribe(s) and the Bureau of Indian Affairs (BIA), and to submit those notices, return receipts, and any tribal or agency response to the juvenile court. (*In re Breanna S.* (2017) 8 Cal.App.5th 636, 654-655.) If, after proper notice is given under ICWA, neither the tribe nor the BIA has provided a determinative response within 60 days after receiving that notice, or if there is no possibility that the children are members or entitled to become members of a tribe, the court may determine that ICWA does not apply to the proceedings and the judgment of the juvenile court shall stand. In the alternative, if the tribe or the BIA subsequently confirms that the children

are Indian children, the court shall reverse its determination that ICWA is inapplicable and apply ICWA prospectively. (Cal. Rules of Court, rule 5.482(c)(1).)

DISPOSITION

The jurisdictional and disposition orders are conditionally reversed. The matter is remanded to the juvenile court with directions to comply with the inquiry provisions of Welfare and Institutions Code section 224.2 and California Rules of Court, rule 5.481, and if, as a result of that inquiry there is reason to know the children are Indian children, with the notice provisions of ICWA (Welf. & Inst. Code, § 224.3 & Cal. Rules of Court, rule 5.481). If the inquiry reveals no reason to believe the children are Indian children, or father and his family do not respond to DCFS's diligent efforts to obtain such information, the orders will be reinstated. If it is determined notice is required, the court must proceed accordingly.

The remittitur shall issue forthwith.

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STRATTON, J.

We concur:

BIGELOW, P. J.

GRIMES, J.